IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1183 OF 2003

The State of Maharashtra ...Appellant.

V/s

1. Vishram @ Arun Satyawan
Pavaskar, Age about 40 years.

2. Namdeo Satyawan Pavaskar,
Age about 35 years.

3. Ekanath Satyawan Pavaskar,
Age about 29 years.

4. Megharaj Dinkar Watave,
Age about 45 years.

5. Deepak Ganpat Shelte,
Age about 40 years

All R/o. Pavashi-Borbhatrwadi,
Tal: Kudal, Dist: Sindhudurg ...Respondents.

Mr. A.M. Shringarpure for the appellant.

Mr. A.S.Khandeparkar for the respondent.

CORAM: V.M.KANADE,J.

DATE: 9th December, 2004

P.C.

1. State has filed this appeal challenging the Judgment and Order passed by the Judicial Magistrate, First Class, Kudal in Regular Criminal Case No.7 of 2000. By the said Judgment and Order dated 30/6/2003, the Judicial Magistrate was pleased to acquit the accused of the offence punishable under sections 147,

149, 323, 324, 504, 506 of the Indian Penal Code.

2. Prosecution's case in brief is that on 3/11/1998, complainant Ramesh Sabaji Mestri alongwith Chandrakant Narayan Pavaskar, Dilip Hari Tulaskar had gone to the shop owned by Laxman Korgaonkar situated in the Kudal Market. Thereafter, all of them had gone to Santoshi Mata Hotel owned by Laxman Korgaonkar. Repair work was going on at the said place and Laxman Korgaonkar gave instructions to the workers and, thereafter, they proceeded in Tata Sumo vehicle to Village Pavashi. The said Laxman Korgaonkar dropped the complainant and two others on Mumbai-Goa Highway and, thereafter, he went to his house.

3. Prosecution's case is that, at about 10.00 p.m., when the complainant and Chandrakant were going towards Borbhatwadi, the accused abused them and the accused Visharam @ Arun Pavaskar assaulted Chandrakant with stone on his head and other accused Megharaj and Deepak assaulted Chandrakant with stick on his right leg and back. The accused, thereafter, ran away by taking sticks alongwith them. According to the complainant, there was a rivalry between the complainant and the accused in respect of the temple and before the incident, the accused had threatened

the complainant not to enter the temple. Initially, they were admitted in the Rural Hospital, Kudal for medical treatment and, thereafter, they were taken to the Goa Medical College for further treatment. The Trial Court acquitted the accused. State has, therefore, filed this appeal against the acquittal.

4. Record and proceedings were called for and are received. Respondents also have annexed additional compilation consisting of depositions of witnesses 2 to 9.

5. The learned APP appearing on behalf of the State has taken me through the Judgment and Order of the Trial Court. The learned Counsel appearing on behalf of the respondents has taken me through the evidence on record. The Trial Court has acquitted the accused on the ground that there was a discrepancy in the evidence of P.W.3, P.W.5 who were material eye witnesses in the case.The said inconsistency and contradiction was on various points including nature and manner of assault as also the exact words used by the accused while abusing them.

6. I have perused the evidence of P.W. 7 - Dr. Gurudas Shamrao Kulkarni and P.W. 8 - Dr. Amit Dilip

Kudchadkar. From the evidence of these two witnesses, it can be seen that there is different version given by both these doctors regarding the nature of injuries which were found on the injured persons. Further, there is a contradiction and inconsistency in the ocular evidence and the medical evidence placed on record. Further P.W. 2 - Tulaskar has not supported the prosecution case and has given entirely different version. P.W. 3 - Ramesh Sabaji Mestri and P.W. 5 - Chandrakant Narayan Pavaskar in their evidence have given different version than the one which they have given in their police statement in order to get over the contradiction in their statement on account of deposition of P.W.2 turning hostile.

7. In my view, the Trial Court has given cogent reasons for coming to the conclusion that the evidence of P.W.3 and 5 was full of contradictions and their evidence on the point of incident was doubtful. Further, the version of all the eye witnesses is not supported by the medical evidence. I do not see any reason to interfere with the order passed by the Trial Court. The Trial Court has appreciated the evidence adduced by the prosecution in great detail and has taken a particular view. The said view is a possible view in the facts and circumstances of the case. I do

not see any reason to take a contrary view than the one taken by the Trial Court. Leave is, therefore, refused. Appeal is dismissed.

V.M. KANADE, J.